

**COMMISSION ON TECHNOLOGY
e-COURT SUBCOMMITTEE
APPELLATE COURTS SUBTEAM
MEETING SUMMARY**

December 6, 2010
9:30 a.m. – 11:00 a.m.

State Courts Building Room 107

**SUPREME COURT MEMBERS
PRESENT**

Justice Andrew Hurwitz
Clerk Rachelle Resnick
Staff Attorney Ellen Crowley

**APPEALS DIVISION ONE
MEMBERS PRESENT**

Chief Judge Ann Timmer
Clerk Ruth Willingham
Patsy Lestikow

**APPEALS DIVISION TWO MEMBERS
PRESENT**

Clerk Jeff Handler*

AOC STAFF PRESENT

Stewart Bruner, *ITD*
Karl Heckart, *ITD*
Jim Price, *ITD*

* indicates appeared via telephone

WELCOME AND MEETING PURPOSE

Justice Hurwitz asked members in the room and on the phone to identify themselves.

TURBOCOURT APPELLATE E-FILING

Karl Heckart related some remaining concerns following implementation in the production environment in early November. Six firms have been trained so far and an additional two are scheduled for training. Although a low number of cases have been received, the number and significance of the issues exposed cause Karl and Rachelle Resnick to recommend against mandating appellate e-filing in January. Issues with exempt filings preclude spreading the system to the highest volume users, the Attorney General and public defenders. The possibility remains of mandating e-filing at the end of the phase in period for civil subsequent filing in Maricopa County rather than at the beginning. Justice Hurwitz requested a strategy for increasing the filing volume while awaiting a solution to the TurboCourt exempt filing problem.

Members discussed the wisdom of adding instructions for appellate filing into the training for civil subsequent filing in preparation for the mandatory timetable in Maricopa County. Rachelle will communicate that desire to Amy Wood.

DOCUMENT FORMAT CONCERNS

Judge Timmer described an issue with Division One's BriefTools program being unable to operate on the PDF format filings that are being received. Karl explained that the rule is being expanded to allow word processor formats to preclude that kind of problem. PDF usage is largely historical and should be diminishing over time. Judge Timmer asked whether the rules couldn't specify that word processed documents must be filed in word processor format (.docx or .odt), while documents not produced by the filer's word

processor would be allowed in PDF. A suggestion was also made to modify the “attach documents” screen in AZTurboCourt to display similar language.

Members also discussed the appropriate size limit for attached documents and how large a limit would be sufficient. Karl shared some rule-of-thumb page counts associated with various sizes of files in various formats. Consensus among members was to match the federal courts by setting the limit at 10 megabytes and requiring multiple documents to be filed beyond that size.

On the related subject of handling large appendices and hyperlinks, members recommended a rule change (in conjunction with Rule 124’s relaxation of restrictions on hyperlinks in e-filed documents) to require an active index within documents containing appendices to provide hyperlinks to each appendix. Ellen Crowley will construct language in advance of the January deadline for filing rules petitions.

SIGNATURES ON ELECTRONIC ORDERS

Justice Hurwitz introduced the subject by stating that /s/ notation for signature turns out to be an intermediate stop on the road rather than the destination. Members discussed the role of signatures on both orders of the court and judgments. In today’s world, authenticity derives from the, storage location, originating account, and distribution channel used for the record. All agreed that the clerk’s job is to ensure authorization exists for issuing any document from the court, regardless of signature format. They also concluded that the presence of a blank line with no signature implies that a signature belongs there and should be removed. A brief discussion took place about the need to revise Rule 11 concerning signatures on documents.

OBTAINING OTHER ELECTRONIC RECORDS

Judge Timmer relayed Judge Winthrop’s report on discussions about obtaining electronic court reporter records. Death penalty case transcripts are the easiest items to receive electronically, provided AZTurboCourt can register court reporters as exempt filers. Members speculated that transcripts for other case types may be more difficult to obtain if reporters perceive that e-filing results in infinite public access without additional payment to them. No separate agreements should be made between Maricopa and court reports as opposed to appellate courts and court reporters. Judge Winthrop also recommends that depositions to be included in the record be filed electronically.

Members discussed the situation with the Industrial Commission as reported in the last meeting and wondered whether the court should mandate electronic filing, with sufficient lead time, to give their presiding judge leverage with agency leadership. A similar strategy could be used with unemployment appeals from Dept. of Economic Security. Karl understood both agencies to be imaging documents already, so it would take extra work to send paper to courts. Stewart will contact the CIOs to ask whether they do indeed image hearing-related documents and determine what is needed to support transfer of electronic records rather than paper.

OTHER UPDATES AND ISSUES

None were made or raised.

WRAP UP

A follow-up meeting will be scheduled during the second week in January to report on opening the pipeline of appellate e-filings wider. Following that, meetings may be scheduled by topic rather than according to the calendar.

Meeting adjourned at 10:45 p.m.